

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

130-1

Effective January 1, 1998 unearned income is defined as any income which is neither earned income, nor disability based unearned income. (W&IC §11451.5(c))

130-3

For purposes of §44-315, the following definitions apply:

- .11 "Net nonexempt income" means all earned income and disability-based unearned income less applicable disregards, plus unearned income.
- .12 "Grant amount" means the amount of cash aid which is to be paid to the AU.
- .13 "Potential grant" is the MAP plus special needs of the family, minus net nonexempt income.

(§44-315.1, effective July 1, 1998, and revised effective July 30, 1999, renumbered to 44-315.32 effective July 1, 2004)

130-4

Net nonexempt income is gross income for the AU and other family members (if applicable), minus applicable income exemptions (per §44-111) and income disregards (per §44-113). (§44-207.221, revised effective July 1, 1998)

State regulations provide that gross income includes: "(1) earnings by part-time student applicants; and (2) current child support payments collected by the county, but does not include child support payments collected by the county for a child subject to MFG, (See §44-314.6)." (§44-207.221(a), as revised effective July 1, 1998)

131-1A

Rental of rooms, and room and board payments, are considered self-employment income. Net income is determined under §44-113.212. (§44-113.1b., effective March 1, 1996)

132-3

Noneducational grants are exempt from consideration as income when it is verified that the proceeds are not available to meet current needs. (Current needs are defined as those items covered in §44-115.3.) Prior to April 1, 1997, noneducational loans were treated in this same manner. (§44-111.436)

132-4A

A loan is defined as a written agreement signed and dated by the lender and applicant/recipient as parties to the agreement. The loan must specify the obligation of the borrower to repay the loan, and a repayment plan which provides for installments of specified amounts that continue on a regular basis until the loan is fully repaid. Such loans are considered exempt from consideration as income in the CalWORKs (formerly AFDC) Program. (§44-111.437(a), effective April 1, 1997)

132-5A

Effective July 1, 1993, all undergraduate and graduate student financial assistance received under the programs in Title IV of the Higher Education Act, or under the Bureau of Indian Affairs (BIA) student financial assistance program, is exempt. Some examples of this student financial assistance are Pell Grants, Supplemental Educational Opportunity Grants, State Student Incentive Grants, College Work

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

Study, Perkins Loans (formerly NDSLs), Guaranteed Student Loans (including PLUS and Supplemental Loans for Students), BIA Higher Education Grants, and Indian Health Service Scholarship Program.

Carl D. Perkins Vocational and Applied Technology Education Act loans are not completely excluded from property consideration.

It is the position of CDSS that for continuing cases, these provisions shall be implemented upon request of the AU, at redetermination, or as the county becomes aware of such cases.

(All-County Letter No. 94-02, January 11, 1994; Public Law 102-325, §479B; AFDC Action Transmittal No. ACF-AT-93-8; §42-213.2c.(2))

132-6

The necessary costs of transportation to and from school shall be allowed as an education grant deduction based on the mode most economically available and feasible in the particular circumstances. If it is determined that personal car usage meets the criteria above, all actual transportation costs will be prorated based on the percentage of miles driven to and from the school to total miles driven. Allowable transportation costs include, but are not limited to, car payments, car insurance, and registration and gasoline. (§44-111.435, as modified April 1, 1997 to exclude educational loans from treatment under this regulation)

133-1

If a recipient has received a support payment directly from an absent parent and he or she does not send the payment to a county agency or the District Attorney (DA), the welfare department shall notify the local support agency (formerly DA) and treat the payment as follows:

- .21 Determine what portion of the direct payment represents the current month support obligation.
- .22 From the current month support payment, disregard an amount up to \$50. However, no amount shall be disregarded under this section if a full disregard has been provided to the AU for that month.
- .23 Treat the remainder of the direct payment as unearned income in the month received.

(§82-518.2, replacing §43-201.31, effective July 1, 1997, revised effective August 12, 1999 and January 18, 2000)

133-1A

Although the CDSS has been approved to substitute the Temporary Assistance for Needy Families (TANF) program for the AFDC program as of November 26, 1996, and implemented the CalWORKs program effective January 1, 1998, counties must continue to disregard the mandated \$50 child support disregard. (All-County Information Notice (ACIN) No. I-11-97, February 25, 1997; ACIN No. I-51-97, August 15, 1997; §82-518.22)

133-1B

In wage assignment cases, for purposes of determining entitlement to any payments to families, the date of collection is the date the payment is withheld from the absent parent's wages. (§82-518.4, effective July 1, 1997, revised to §82-520.2, effective April 1, 2000)

133-1C

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

The AU shall be paid a disregard of up to \$50 of the amount of collection which represents payment on a current support obligation (court ordered or voluntary). The county shall disregard this payment as income or resources for eligibility determination and grant computation. (§82-520.4, revised October 1, 1998)

133-2

The 9th Circuit Court of Appeals has held that the language of 42 United State Code §657(b)(1) is ambiguous, as to whether there may be more than one \$50 child support pass through in a month. The Court held that the Washington interpretation, to limit payment pass through to one \$50 payment per month, was reasonable and therefore upheld.

The Court went on to hold that pay-through payments are credited when they are withheld from the wage-earner's check, not when they are actually received by the state. (*Vanscoter v. Sullivan* (1990) 920 F. 2d 1441)

133-3

The United States Supreme Court has held that Title II child insurance benefits paid to the dependent child of a disabled, retired, or deceased parent for the purpose of supporting that child are not "child support" payments for AFDC purposes. Thus, there is no \$50 disregard applied to those payments. (*Sullivan v. Stroop* (1990) 110 S. Ct. 2499)

133-6

"Excess payments" made to a "family" from child/spousal support collected in any month are considered available income for CalWORKs purposes in the month received. "Pass-on payments" made on behalf of a foster care case shall be considered income in the month received. (§82-520.5, revised effective October 1, 1998 and repealed effective April 1, 2000) These regulations were revised to provide that all excess and pass-on payments made to a family from child/spousal support are considered available income to the family or foster care child. (§82-518.14, effective April 1, 2000)

133-7

Child/family and spousal support distribution regulations for current and former CalWORKs and foster care cases are governed by regulations in Division 12, §12-425, §43-203, and §§82-508, 82-518, and 82-520. Handbook §§25-900 through 25-925, have been repealed. (§43-203.3 and Handbook §43-203.31, effective August 12, 1999)

133-8

Federal regulation 45 CFR §74.53 requires records to be retained for three years from the starting date specified in 45 CFR §74.22. That regulation states that the starting date for the retention of (Title IV-D) records begins on the day that the grantee (CDSS) submits its expenditure report for the last quarter of the Federal fiscal year. In other words, Federal regulations require closed case records to be retained for three years after the date that the last quarter's State expenditure report is made to the Federal Government for the Federal fiscal year that the records were closed. More simply, case records must be retained for a maximum of four years and four months (the normal period of time that would occur between the date a case is closed and the date CDSS would submit its last quarter's expenditure report for the Federal fiscal year that the case was closed).

Federal regulation 45 CFR §74.53 sets forth the requirements for certain records which have retention requirements which vary from this general rule. Some records require a longer retention period. These include:

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

1. Records and their supporting documentation must be retained when they are the subject of an open Federal or State audit.
2. Records and their supporting documentation must be retained when they are the subject of pending civil litigation or when court orders require extended retention periods.

It should be noted that the Federal Government has authority to audit records, regardless of their age, for as long as they are retained.

The provisions of this letter are for the fiscal purposes of CDSS and do not authorize the destruction of those records which have a longer retention period required by other laws/regulations, court cases, or unresolved audits.

(All-County Letter No. 00-38, July 11, 2000)

134-2 REVISED 7/06

Income in kind is any benefit received other than in cash. It includes the value of need items provided at no charge. (§44-101(j))

134-3

Income in kind from nonneedy relatives other than a parent can only be counted for CalWORKs (formerly AFDC) purposes if the relative voluntarily chooses to make such a contribution. (§44-115.21)

134-4 REVISED 7/06

The CalWORKs (formerly AFDC) in-kind income values for an AU of _____, is \$_____ in _____, (§44-115.31).

134-4A REVISED 7/06

Effective January 1, _____, there are separate income-in-kind values set forth for Region 1 and Region 2 counties. For an AU of _____ in a Region _____ county, the in-kind value of _____ is \$_____. (Handbook §44-115.311(a))

134-5 REVISED 8/04

If the applicant or recipient does not agree with the in-kind income value arrived at in §44-115.31, he or she may submit evidence of the value of the in-kind income item which he/she receives in kind or reasonably anticipates receiving. For housing and clothing, the aid in kind value shall be the net market value of the item reasonably anticipated to be received. For utilities and food, the aid in kind income shall be the cost to the person who will pay for the item.

If the applicant or recipient presents satisfactory evidence that the value of the item reasonably anticipated to be received in-kind is other than the value specified in §44-115.31, such evidence shall be used by the county in determining the value of the item if it is to the recipient's financial advantage. (§44-115.32) In no event can the in-kind income value exceed the amounts specified in Handbook §44-115.311(a). (§44-115.333)

134-6

If a CalWORKs applicant or recipient presents satisfactory evidence of the value of a need item shared

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

with persons who are not members of the AU or whose needs are not considered in the AU, the in-kind value attributable to the AU shall be the lesser of:

- .331 Their pro rata share, for persons whose needs are considered in the AU, of the net market value or cost of the item; or
- .332 The in-kind income table value established under §44-115.311 for the appropriate number of persons whose needs are considered in the AU.

(§44-115.33, as revised effective July 30, 1999)

135-5D

The income of a parent is considered when that parent is living in the home but is excluded from the AU. An excluded parent's needs shall only be considered if the parent has income, unless the parent is an ineligible alien parent as described in §44-133.521. This rule does not apply to parents excluded because they have been sanctioned, or are a recipient of another aid program or a member of a different AU. (§44-133.51, as revised effective July 30, 1999)

135-7A

Prior to March 31, 2003, state regulations provided that:

When the minor parent lives with his/her parent(s), senior parent income shall be "considered" (formerly "deemed") per §44-133.52. When such income results in ineligibility of the minor's AU:

- .511 The minor parent shall be ineligible and excluded from the AU.
- .512 Senior parent income shall not be considered available (formerly deemed) to the minor parent's child(ren).
- .513 The income eligibility of the minor parent's child(ren) shall be determined per §§44-207.2 and .3.
- .514 The minor parent's income shall be considered available to his/her child(ren)'s AU using the excluded parent computation.

(§89-201.5, effective May 1, 1997, revised effective July 1, 1998, and repealed effective March 31, 2003)

135-7B

Prior to March 31, 2003, state regulations provided that:

When senior parent income, per §44-133.52, does not result in ineligibility of the minor, and the minor parent is eligible to be in the AU with his/her child(ren), or is eligible to be included in the senior parent's AU, then:

Senior parent income shall be considered, and the AU's grant amount shall be the greater of:

- (a) The actual grant amount, per §44-315.3, replaced by W&IC §11451.5 effective January 1, 1998; or

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

(b) The MAP for the minor parent's child(ren).

(§89-201.53, as revised effective July 1, 1998, and re-revised effective March 31, 2003)

135-8

Pursuant to the final order in the case of *Grimesy v. McMahon* (United States District Court, N.Cal; No. C86 0947 JW, 12/22/86), the provisions relating to the deeming of senior parent income set forth in §44-133.7 are not applicable when the parent is 18 years old, lives with his or her parent, and does not meet the school attendance requirements of §42-101.2. The effective date of this court order is June 24, 1986 and the order is retroactive to January 18, 1985. (*Grimesy v. McMahon*; All-County Information Notice (ACIN) No. I-58-86, July 1, 1986; All-County Letter (ACL) No. 87-17, January 30, 1987; Handbook §44-133.77)

135-9

Regulations concerning income to the AU from a senior parent of a minor parent apply only when the senior parent resides in the home with a minor parent and the minor's child and the senior parent or legal guardian is not receiving CalWORKs (formerly AFDC). (§44-133.73)

135-10

Pursuant to the writ of mandate in the case of *Hager v. McMahon* (Case No. C608 617, Los Angeles County Superior Court, 7/27/87) §44-133.7 may not be applied to AFDC-Foster Care eligibility or grant determinations. Additionally, §44-133.7 will not be applied in determining eligibility or amount of the aid payment or dependent AFDC-Family Group children residing with his/her AFDC minor parent and the parent's nonrelated legal guardian. (All-County Letter No. 87-129, September 21, 1987)

135-11

The income and resources of the sponsor and his/her spouse who is not receiving public cash assistance payments, and who lives with him/her, shall be deemed to be the income and resources of the sponsored alien. (§43-119.22)

135-12 ADDED 12/04

The following general formula determines the income deemed to the sponsored alien:

- .711 Determine the total amount of unearned income of the sponsor and his/her spouse.
- .712 Determine the total amount of income received by the sponsor and his/her spouse as wages or salary or as net earnings from self-employment.
- .713 If the sponsor is the sponsor of more than one noncitizen, divide the total gross income by the total number of sponsored noncitizens who are applying for or receiving CalWORKs (formerly AFDC). This amount shall be deemed to be the income of each applicant or recipient who is a sponsored noncitizen.
- .714 When the sponsored noncitizen is not included in the AU, the portion of his/her income, which has been deemed from the sponsor, shall not be used in determining his/her contributions to the AU unless such income is actually available to the AU.
- .715 When the sponsored noncitizen is a member of the AU, this deemed income from the sponsor shall be treated as unearned income in accordance with Sections 44-113 and 44-315.4

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

.716 If the sponsor is either an excluded parent or stepparent, his/her income shall be treated in accordance with the excluded parent or stepparent deeming computation.

(§44-133.7)

135-14

When a parent or child has been excluded from the AU, determine the child's or parent's net nonexempt income. Then, determine the MBSAC plus any verified recurring special needs for the AU and the excluded persons. From that amount, subtract the MBSAC plus any verified recurring special needs for the AU. The maximum amount for recurring special needs for the excluded parent or child shall not exceed \$10. Subtract the calculated amount from the excluded person's net income to determine net income to the AU. (§44-133.33)

135-15

When the ineligible alien child has income sufficient to meet such child's needs, no income in excess of that amount shall be applied to the AU, to needy siblings, or to other individuals in the ineligible alien parent unit. (All-County Letter (ACL) No. 92-68, July 6, 1992, clarifying §44-133.33)

135-17

The CDSS has determined that effective December 1, 1997, the *Ortega v. Anderson* court case would be implemented. That case required the CDSS to conform its policies to the holding of the California Supreme Court in *Darces v. Woods* (1984) 35 Cal. 3d 871, 201 Cal. Rptr. 807.

When a case involves an ineligible, undocumented alien family member, the statutory provisions set forth in W&IC §11008.14 are inapplicable. Counties are required to comply with the instructions set forth in All-County Letter (ACL) No. 97-57, October 6, 1997, and in §44-133.5. (ACL No. 98-17, March 13, 1998)

135-18

When there are ineligible alien family members in the home, net nonexempt income attributable to the AU is determined as follows:

.531 The provisions of §44-100 et seq. apply.

- (a) Each employed family member shall be entitled to the work expense disregard.
- (b) No dependent care, \$30 and one-third, or \$30 disregard shall be allowed.
- (c) Deduct any amount actually paid by each family member to persons not living in the home but who are, or could be, claimed by the family member for purposes of determining federal income tax liability.
- (d) Deduct any court ordered child and spousal support paid by the family member to persons not living in the home.

.532 The remainder is net nonexempt income to the AU for eligibility and grant amount determination. The needs of the ineligible alien family members shall be included, per §44-133.52.

(§44-133.53; All-County Letter (ACL) No. 98-17, March 13, 1998 referencing ACL No. 97-57, October 6, 1997)

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

136-6 REVISED 8/04

In monthly reporting/prospective budgeting, a separate AU for an otherwise eligible person whose needs were not considered in the lump-sum computation may be established when the existing AU is ineligible due to the receipt of lump-sum income. (§44-205.71 repealed effective July 1, 2004.)

136-11

Lump-sum refunds of the employer's share of retirement contributions shall be considered net unearned income in the month received, as shall the interest earned on accumulated retirement contributions. (§44-113.8) The refund of the employee's own contribution shall be included in the property reserve. (§42-211.257)

136-11C

The receipt of CalWORKs shall not limit nor restrict a recipient's right to give, receive, sell, exchange, or change the form of property or income holdings. A period of ineligibility (POI) shall result when a recipient AU gives away or transfers, for less than Fair Market Value (FMV) nonexcluded income or property that would cause the AU "to exceed its eligibility for benefits." [emphasis added] (§42-221.1, as revised effective August 5, 1999)

136-11D

A POI shall result when, in the month of receipt, a recipient gives away or transfers for less than FMV, "nonexempt, nonrecurring income that would cause the AU to be ineligible for a cash aid payment. [emphasis added] A transfer for less than FMV results when a recipient uses nonexempt, nonrecurring income to purchase a product or service with an FMV less than the money transferred." (§42-221.4, as revised effective August 5, 1999)

136-11E

In a transfer of income situation, income is considered nonrecurring when the income is not interest nor contractual income, is received for a period of more than one month, and the "income is not from a source expected to occur regularly." (§42-221.41, as revised effective August 5, 1999)

136-16A

For purposes of computing eligibility and grant amount in CalWORKs, the family includes all members of the AU and those family members living in the home who are referenced in W&IC §11008.14. It is the position of the CDSS that CalWORKs does not count the income of any family member not previously considered under AFDC. In addition, all deeming formulae are eliminated, except for those individuals described in §44-133.5 per All-County Letter (ACL) No. 97-57, which implemented the *Ortega* court order. (ACL No. 97-59, October 14, 1997, as modified by ACL No. 98-17, March 13, 1998) Effective July 1, 1998, "family" is defined differently for property purposes only. (§42-203.8)

136-18 ADDED 2/04

Property eligibility is determined only once per quarter. Property rules under quarterly reporting remain unchanged under QR/PB except that nonrecurring lump sum income is now considered property in the month received in CalWORKs just as in food stamps. (All-County Letter No. 03-18, April 29, 2003, p.16)

136-18A ADDED 8/04

Under QR/PB, nonrecurring lump sum payments which are not recurring regular income and usually nonrecurring in regard to amount and/or source, shall be treated as property in the month of receipt and any subsequent months. (§42-209.2, 44-101(I))

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

137-1

All net income of persons included in the AU is income to the AU. (§44-133.1)

137-2 REVISED 8/04

Income is any benefit in cash or in kind which is in fact currently available (monthly reporting)/reasonably anticipated to be available (quarterly reporting) to the individual or is received as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations or assistance agencies. To be considered in determining the cash (formerly AFDC) aid payment, income must, in fact, be currently available (monthly reporting)/reasonably anticipated to be available (quarterly reporting) to needy members of the family in meeting their needs during the budget period (monthly reporting)/QR Payment Quarter (quarterly reporting). (§44-101, revised July 1, 1998, revised again July 1, 2004)

137-2A ADDED 8/04

Income is reasonably anticipated when the county determines that it is reasonably certain that the recipient will receive a specified amount of income during any month of the QR Payment Quarter. This definition applies to earned and unearned income. (§44-101(c))

137-3

In cases in which the AU resides in the same household as a Supplemental Security Income (SSI) or Cash Assistance Program for Immigrants (CAPI) recipient, the aid payment and income of an SSI or CAPI recipient shall not be included in the AU's income and grant computation. (§44-133.21)

If a CalWORKs (formerly AFDC) applicant is determined to be eligible for CalWORKs and is included in the AU, the income of the CalWORKs applicant that may have been used in computing an SSI or CAPI grant for another person will be included in the CalWORKs grant computation. The county shall notify the Social Security Administration or the appropriate CAPI worker as to the effective date that the income is used in the CalWORKs grant computation so that such income may be deleted from the SSI or CAPI grant computation. (§44-133.26, as modified effective July 1, 1998, and revised again effective July 30, 1999)

137-4A

Income of persons living in the home, required to be in the AU, who have been sanctioned or penalized, is considered available income to the AU. The needs of these individuals are not considered, except for persons in the AU who are being penalized for failure to cooperate with child support. Actions which are subject to sanction, or which constitute a failure to cooperate include, but are not limited to: failing or refusing, without good cause to comply with welfare-to-work requirements; refusing without good cause to furnish or cooperate in securing a Social Security number; refusing to assign rights to child and spousal support payments; or refusing to take actions necessary to obtain unconditionally available income. (§44-133.4, effective July 1, 1998)

137-5

All income shall be considered currently available during the month received, except in four (previously five) situations. The exceptions to availability have been:

- (a) Interest income which is received regularly, but less frequently than monthly.

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

- (b) Employees with annual contracts of employment when the employee works and receives income in fewer than 12 months, but more than 8 months.
- (c) Child support, as provided for in §43-203.
- (d) Any income remaining after computing the period of ineligibility due to the receipt of nonrecurring lump-sum income. (Repealed effective January 1, 1998)
- (e) Monthly recurring unearned governmental benefits when the receipt date of the income varies because mailing cycles cause two payments to be received in one month and none in the preceding or following month. (Renumbered to (d) effective January 1, 1998)

(§44-102; Subsection (d) was deleted, and Subsection (e) renumbered to (d), following the enactment of Assembly Bill No. 1542, W&IC §11157)

137-5A ADDED 8/04

Under QR/PB, all reasonably anticipated income shall be considered available to meet the needs of the AU during the QR Payment Quarter and shall be considered when determining eligibility and grant amount except for interest income received regularly, contractual income when received in fewer than 12 but more than eight months, and child support as provided for in §43-203. (§44-102.1 effective 7/1/04)

137-7

The income of the parent (natural or adoptive) of an eligible child, and the income of the spouse of that parent, as well as the income of the eligible child's siblings who live in the child's home, plus the income of the applicant or recipient, shall be considered available for purposes of eligibility determination and grant computation. (W&IC §11008.14, effective January 1, 1998)

138-2

Income which does not exceed \$30 in a quarter that is received in prospectively budgeted months, and which is received too infrequently or irregularly to be reasonably anticipated, shall be excluded as income. (§44-111.441, effective July 1, 1998, implementing AB No. 1542, effective January 1, 1998)

138-3

Under state law, any child support payment received for the MFG child shall be paid to the AU, and shall not be counted as income to the family. (W&IC §11450.04(e))

138-3A

Under state regulations, any child support payments received by the District Attorney for the MFG child shall be given to the AU and are exempt from consideration as income (§44-314.62)

138-4

The aid payment and income of a Supplemental Security Income/State Supplemental Program recipient shall not be counted in determining the CalWORKs (formerly AFDC) AU's income and shall not be used in computing the grant. (§44-133.21, as modified effective July 1, 1998)

138-6

In CalWORKs (formerly AFDC), income in kind for partial items of need is exempt. (§44-111.452)

138-7 REVISED 8/04

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

The first \$50 per month of current child or spousal support paid to or on behalf of an AU shall be disregarded when determining both eligibility and grant amount. Under QR/PB, when current child/spousal support reasonably anticipated to be received directly by the AU, the first \$50 is disregarded. (§44-111.47)

138-8

Prior to January 18, 2000, regulations required the District Attorney to distribute to the AFDC family up to \$50 of the child or spousal support collected which represents payment on the current support obligation. This disregard payment shall be made by the fifteenth calendar day of the month following the month of collection. (§§43-203(b) and 82-520.61, as effective January 28, 1999, and modified effective January 18, 2000) As of January 18, 2000, it is the local child support agency which shall make the payment, and the payment shall be made per §12-425. (§82-520.2, as re-revised effective April 1, 2000)

138-12

Each Kin-GAP child is in his or her own AU, even if there is a sibling or a needy caretaker relative living in the same home. (All-County Letter (ACL No. 99-97, November 4, 1999; §90-105.31, effective July 10, 2000)

The Kin-GAP recipient is excluded by law from receipt of CalWORKs (W&IC §11450(j)) and the income and aid payment of the Kin-GAP recipient is not considered available to CalWORKs applicants and recipients. (W&IC §11371) The needy caretaker relative of the Kin-GAP recipient may be in his/her own one-person AU, or included in an AU with other eligible dependent children. (W&IC §11450.16(B); §82-820.22, effective July 1, 2000) These rules are effective January 1, 2000. (ACL No. 99-92, October 25, 1999)

138-13

In accord with §44-113.32 in CalWORKs, net income from pensions and similar sources is the gross amount received less the required income tax deductions and other required expense deductions related to the receipt of the income. For purposes of this provision, income from "similar sources" includes various unearned income sources such as social security benefits, unemployment insurance benefits, and disability benefits. Deductions for required income tax payments on the income are deductible regardless of whether the individual has the option to have the taxes deducted directly from the income. "Required expenses" related to receipt of the income include: (1) a mandatory Medi-Care deduction, (2) attorney fees deductions that are required to receive the income, and (3) overpayment adjustment deductions for an overpayment of the income. Deductions resulting from other personal debts and garnishments must be included in the net income amount, as they are not considered required expenses related to the receipt of the income. (All-County Letter No. 00-13, February 20, 2000, interpreting §44-113.32)

138-14

Effective April 1, 2001, the following payments shall be exempt income for CalWORKs grant computation purposes when the case is subject to the MFG rule:

1. Child support payments from the absent parent for the MFG child, no matter to whom the payment is sent.
2. Derivative benefits from Social Security or other government programs based on the absent parent's disability or retirement, paid to or on behalf of the MFG child, when those benefits satisfy, in whole or in part, the absent parent's child support obligation.

SHD Paraphrased Regulations - CalWORKs

130 Unearned-Income

(All-County Letter No. 01-16, March 2, 2001, implementing the *Kehrer v. Saenz* court order; see also §44-314.62, amended effective July 1, 2001 and §44-314.621, added effective July 1, 2001)

138-15

For CalWORKs eligibility and grant determination purposes, any child support paid to a senior parent on behalf of a minor parent, who resides with the senior parent, shall not be included as minor parent income in the "excluded parent computation" set forth in §89-201.514. (All-County Letter No. 01-15, February 28, 2001 implementing the *Dominika S. v. Saenz* court order, effective with the February 1, 2001 grant computations and eligibility determinations. Section 89-201.514 was repealed effective March 31, 2003)

138-16

Payments made by the CalWORKs program for child care costs, under §47-420.2, are exempt. (§44-111.3f.)

138-17

VISTA payments are exempt as income for CalWORKs eligibility and cash aid determination purposes. (§44-111.61(f))

VISTA's name was changed from VISTA to AmeriCorps VISTA in 1994, and payments under that program are still exempt income. However, there are other AmeriCorps payments (e.g., State/National, National Civilian Community Corps) which are not exempt from income consideration. (All-County Information Notice No. I-70-02, September 23, 2002)

139-1

Effective with cash aid payments issued in January 1998, disability-based unearned income means State Disability Insurance benefits, private disability insurance benefits, Temporary Workers' Compensation benefits, and social security disability benefits. (W&IC §11451.5(b)(2); §44-101.6)

139-1A

Private disability insurance benefits, which are treated as disability-based unearned income, include all privately purchased or employee-sponsored disability insurance benefits whether or not there is an employee contribution. Private disability insurance benefits do not include disability benefits that are not insurance benefits, such as veterans' benefits. (§44-101.612, as revised effective July 30, 1999)

139-2

When children receive income that is the result of a parent (whether in or out of the AU) receiving disability-based unearned income, the income to the child is considered disability based and shall qualify for the \$225 disability-based unearned income disregard. Counties must issue corrective underpayments no later than October 1, 1998 when they had incorrectly classified such payments as unearned income. (All-County Letter No. 98-62, August 6, 1998, interpreting W&IC §11451.5, effective January 1, 1998)